

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CSX TRANSPORTATION, INC.)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-00338 (EGS)
)	
WILLIAMS <i>et al.</i>)	
)	
Defendants.)	

CSXT’S MOTION FOR SUMMARY JUDGMENT

Plaintiff CSX Transportation, Inc. (“CSXT” or “Plaintiff”) respectfully moves this Court for summary judgment pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1.

As set out more fully in the accompanying Memorandum of Points and Authorities in Support of CSXT’s Motion for Summary Judgment, the previously filed Memorandum of Points and Authorities in Support of Motion for Preliminary Injunction, and supporting affidavits and exhibits, Plaintiff seeks summary judgment on its claims that:

- the District of Columbia Terrorism Prevention in Hazardous Materials Transportation Emergency Act of 2005 (“District Act”) is preempted under the express preemption provision of the Federal Railroad Safety Act, 49 U.S.C. § 20106, and the Supremacy Clause of the United States Constitution (Art. VI, ¶ 2);

- the District Act is preempted under the express preemption provisions of the Hazardous Materials Transportation Act, 49 U.S.C. § 5125(a) and (b), and the Supremacy Clause of the United States Constitution (Art. VI, ¶ 2);
- the District Act is preempted under the express preemption provision of the Interstate Commerce Commission Termination Act of 1995, 49 U.S.C. § 10501(b), and the Supremacy Clause of the United States Constitution (Art. VI, ¶ 2);
- the Council of the District of Columbia lacked the legislative authority under the Home Rule Act to pass the District Act; and
- the District Act is a *per se* violation of the Commerce Clause of the United States Constitution (Article I, § 8, cl. 3).

Plaintiff's accompanying Statement of Material Facts as to Which There Is No Genuine Issue demonstrates that no genuine dispute of material fact exists in this case. Applicable Supreme Court and lower federal court precedent establishes that the District Act is invalid as a matter of law. Plaintiff is therefore entitled to judgment on its claims. Accordingly, Plaintiff seeks a declaration that the District Act is invalid and a preliminary injunction prohibiting defendants Mayor Williams and District of Columbia from implementing or enforcing this law or any more permanent version of it.

The granting of this dispositive motion will fully resolve this case, avoiding unnecessary discovery and trial preparation and conserving the resources of the judicial system.

Respectfully submitted,

Dated: March 8, 2005

/s/ Mary Gabrielle Sprague

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CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2005, copies of CSXT's Motion for Summary Judgment, Memorandum of Points and Authorities in Support of CSXT's Motion for Summary Judgment, and Statement of Material Facts as to Which There Is No Dispute were served electronically by the U.S. District Court for the District of Columbia Electronic Document Filing System (ECF), on the following:

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